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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

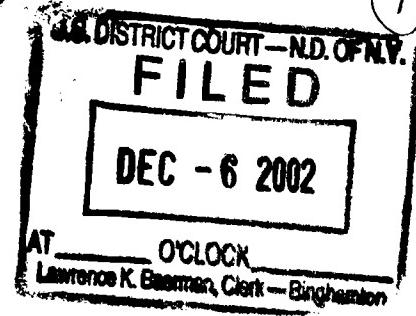
JOHN DOE,

Plaintiff,

v.

HOLY SEE (State of Vatican City), ARCHDIOCESE
OF ROCHESTER, in Rochester, New York,
MATTHEW H. CLARK, Archbishop of Rochester,
and ST. PATRICK'S CHURCH, Owego, New York,

Defendants.



COMPLAINT

Civil Case No.

3:02-CV-1515

TJM JURY TRIAL DEMANDED **GLS**

PRELIMINARY STATEMENT

This is an action arising out sexual molestation and abuse of the plaintiff by an ordained Roman Catholic priest over a period of several years. The causes of action against the defendants are for breach of fiduciary duty, aiding and abetting the commission of criminal sexual misconduct, and a conspiracy among the defendants to protect predatory priests such as Cason and other clergy, enabling them to evade criminal or civil prosecution in liability. Plaintiff further alleges that the defendants were negligent and grossly negligent in the placement, supervision, and retention of Cason, and aided and abetted in the concealment of criminal sexual misconduct which proximately caused the injuries sustained herein.

PARTIES

1. Plaintiff John Doe is an adult male who is a citizen of and has his residence in the State of North Carolina. Plaintiff was a minor at the time of the criminal sexual misconduct alleged herein.
2. Defendant Holy See (State of Vatican City) is a foreign country, and is the ecclesiastical, governmental, and administrative capital of the Roman Catholic Church. Defendant Holy See is the composite of the authority, jurisdiction, and sovereignty vested in the Pope and his delegated advisors to

direct the world-wide Roman Catholic Church, and has unqualified power over the Catholic Church including each and every individual and section of the church, pursuant to which it (a) directs, supervises, supports, promotes, and engages in providing religious and pastoral guidance, education, and counseling services to Roman Catholics world-wide in exchange for all or a portion of the revenues derived from its members for these services; (b) engages in these activities through its agents, cardinals, bishops, and clergy, including religious order priests, brothers and sisters, who engage in pastoral work under the authority of its bishop; (c) seeks and is supported through the contributions of the faithful which are received through donations from the dioceses; (d) promotes and safeguards the morals and standards of conduct of the clergy of the Catholic Church, which it does by and through its agents and instrumentalities, including the Archdiocese of Rochester and St. Patrick's Church, both delegated by the Pope and acting on his behalf; (e) creates, divides, and re-aligns dioceses, archdioceses, and ecclesiastical provinces; (f) gives final approval to the creation, division, or suppression of provinces of religious orders; (g) promotes the sacred liturgy, directs and coordinates the spreading of its faith and other things necessary to promote the faith; (h) creates, appoints, assigns, and re-assigns bishops, superiors of religious orders, and through the bishops and superiors of religious orders has the power to directly assign and remove individual clergy; (i) examines and is responsible for the work and discipline and all those things which concern bishops, superiors of religious orders, priests, and deacons to the religious clergy, and, in furtherance of this duty requires bishops to file a report, on a regular basis, outlining the status of, and any problems with, clergy; (j) promulgates and enforces the laws and regulations regarding the education, training, and standards of conduct and discipline for its members and those who serve in the governmental, administrative, judicial, educational, and pastoral workings of the Catholic Church world-wide; and (k) takes direct responsibility for removing superiors of religious orders, bishops, archbishops, and cardinals from services and/or making them ineligible for positions of

leadership in the various divisions of the Catholic Church.

3. At all times herein mentioned, defendant Archdiocese of Rochester was and continues to be a non-profit religious corporation authorized to conduct business in the State of New York, providing pastoral services to plaintiff and his immediate family through its parishes.

4. At all times herein mentioned, defendant St. Patrick's Church, located in Owego, New York, is and continues to be a non-profit religious corporation authorized to conduct business in the State of New York, while providing pastoral services to plaintiff and his immediate family.

JURISDICTION

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332 because the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and the Plaintiff herein, a citizen of the State of North Carolina, is diverse in state citizenship from Defendants, citizens of the State of New York and a foreign country.

VENUE

6. Venue is proper in this district pursuant to 28 U.S.C. §1391 because a substantial part of the events or omissions giving rise to the claim occurred within this district.

STATEMENT OF FACTS

7. That Plaintiff was born on September 6, 1966, and was raised a devout Roman Catholic.

8. That the plaintiff was very involved church activities.

9. That at the time plaintiff was approximately 14 years old, he became very involved in church activities.

10. That plaintiff's family, being a devout Roman Catholic, encouraged and promoted his involvement with the Church relying on the family holding all defendants in the highest esteem, and relying on defendants' duty to ensure that any person ordained as a Roman Catholic priest had the requisite intellectual, moral, and spiritual qualities to function as a mentor and spiritual father.

11. At all times herein mentioned, Al Cason was a Roman Catholic priest educated by, ordained, and remaining under the supervision and authority of defendants Holy See, the Archdiocese of Rochester, and St. Patrick's Church.

12. Upon information and belief, sometime prior to the transferring him to St. Patrick's Church, defendants became aware that Al Cason engaged in inappropriate criminal sexual behavior.

13. That defendants' conduct in transferring Al Cason to St. Patrick's Church was part and parcel of a conspiracy of the defendants and related entities to intentionally, recklessly, and negligently conceal the criminal conduct of its agents and employees including but not limited to the failing to report criminal conduct of its agents and/or servants, including priests, allowing and aiding them to evade criminal and/or civil prosecution and liability, as well as concealing defendants' own culpability for the conduct complained of herein.

14. That defendants transfer of Al Cason to a position where he was responsible for the education of young Catholic males in training them to function as altar boys was part of the defendants' scheme to protect predatory priests such as Cason and other clergy from criminal prosecution, as well as to maintain or increase charitable contributions, avoid public scandal, and avoid civil liability for their own conduct.

15. That by transferring Cason to a position where he was able to exercise moral and spiritual leadership over young Catholic males, knowing the reverence all parishioners would have for Cason by virtue of his being an ordained Roman Catholic priest, defendants aided and abetted the criminal conduct described below, and further aided and abetted the concealment of such conduct for reasons set forth herein.

16. That plaintiff and his family were unaware of Cason's prior predatory history; and, therefore, considered Cason to be a fine priest, and even held Cason in such high esteem that any

attention shown by Cason to Plaintiff was considered an honor.

17. That around 1976, plaintiff began training as an altar boy at defendant St. Patrick's Church under the supervision of Cason.

18. That in addition to becoming involved in church activities, plaintiff engaged in recreational activities such as playing video games at the rectory and going on outings in which Cason and groups of altar boys would go skiing, waterskiing, camping, and other overnight trips.

19. That plaintiff viewed Cason not only as a spiritual father, but as a mentor and friend who would never do anything wrong or evil to hurt him.

20. That soon after plaintiff became an altar boy, he and other altar boys, also around plaintiff's age, would spend substantial periods of time at the rectory with Cason.

21. One of the activities Cason would have plaintiff and other boys participate in was to mix drinks for him, such as Scotch and water on ice.

22. That in addition to permitting, condoning, and allowing the use of alcohol by altar boys at the rectory, Cason also permitted, if not encouraged, the boys to smoke marijuana and, in fact, had at least one pipe which some of the boys used for the purpose of smoking marijuana.

23. That while plaintiff does not recall exactly when the abuse began, it continued for a period of approximately four (4) years terminating under the circumstances set forth below.

24. That the sexually abusive conduct carried out by Cason included incidents where Cason made him perform oral sex on him and to repeatedly sodomize the plaintiff over the period of time set forth above.

25. That during the sexual encounters, Cason repeatedly told the plaintiff that since he was a priest, anything that came from such high authority had to be alright, and similar comments that were aimed at manipulating plaintiff's tender years and using spiritual authority to compel the plaintiff to carry

out the acts set forth above.

26. That as plaintiff reached the latter part of his fourteenth year or the early part of his fifteenth year, he began to resist Cason's advances and the same in resulted in Cason repeatedly raping the plaintiff by force.

27. That for the last few incidents of the abuse set forth above, Cason would physically pin the plaintiff to the floor and not release him until he performed the sexual activity that Cason sought.

28. That the last incident involving Cason occurred when plaintiff was approximately 15 years old and entered the rectory when he confronted by Cason who then forcibly pinned him to the ground and while smelling of alcohol, said to the plaintiff "so you think you're a tough guy", after which he let plaintiff go.

29. That after the aforesaid incident, plaintiff did not return to the church.

30. Thereafter, upon information and belief, an investigator for the Tioga County Sheriff's Department spoke to Cason and he acknowledged committing the criminal sexual misconduct complained of herein.

31. That thereafter, plaintiff became extremely depressed and in fact refused to attend public school, which resulted in him being seen by the school psychologist.

32. Although the plaintiff did speak with the school psychologist, he never mentioned any of the sexual abuse by Cason and found himself continuing to refuse to attend school, drinking a lot of alcohol, and using a significant amount of drugs, such as, cocaine, LSD, and marijuana.

33. That by the time the plaintiff was 16 years old, he was arrested for breaking into a local movie theater and stealing candy, an activity plaintiff would never have engaged in but forth his sense of helplessness, depression, and the inability to cope with the aftermath of Cason's abuse.

34. That plaintiff's inability to carry out his everyday affairs and, in fact, the criminal act such as set forth above was directly related to his inability to erase the shame, guilt, and degradation he

continued to experience as a result of Cason's activities.

35. Plaintiff was under religious duress imposed by the fact that plaintiff and his family were devout practicing Catholics taught to place unquestioning trust in the Church and its priests, and defendants compounded Cason's criminal conduct by using their exalted positions to shield Cason and themselves from criminal and civil liability by using their power to persuade plaintiff and his family not to charge Cason with criminal conduct.

AS AND FOR A FIRST CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY

36. Plaintiff realleges each and every allegation in paragraphs "1" through "35" as though fully set forth herein.

37. That by holding itself out as a religious educational institution, defendant Archdiocese of Rochester, assumed the duty of ensuring persons ordained as Roman Catholic priests had the requisite intellectual, moral, and spiritual qualities to function as a mentor and spiritual father.

38. That by maintaining a program of instructions for altar boys at St. Patrick's Church including plaintiff herein, defendants entered into a fiduciary relationship with the minor plaintiff.

39. That in light of plaintiff's age, this duty included ensuring plaintiff received proper educational and spiritual instruction as well as ensuring plaintiff was provided a healthy safe environment by carrying out such instructions.

40. That while plaintiff may have known he had a viable cause of action against Cason, neither he nor his mother were aware of a cause of action against the remaining defendants for negligence in placing Cason at St. Patrick's Church, in retaining and supervising Cason, and for failing to warn plaintiff of Cason's dangerous propensity to molest young males, and for placing him in a position where he would have ready access to young males and utilize his superior position.

41. That this includes the failure of employees or agents at St. Patrick's Church to monitor Cason's activities at the rectory; which failure is reflected in the fact that Cason, over a period of several

years openly and notoriously had male minors serve and prepare alcoholic beverages for him while at the rectory, at an age when they are entering puberty or even younger.

42. Upon information and belief, defendant, Archdiocese of Rochester, knew it had a duty to obtain disclosure information relating to the sexual misconduct of Cason and that it had the duty to use reasonable care in placing Cason in a position where he would not have any access to young males, and to properly monitor his conduct, and that plaintiff had a viable cause of action against said Diocese for failing to fulfill the aforesaid duties.

43. Upon information and belief, defendant, Holy See, knew it had a duty to obtain disclosure information relating to the sexual misconduct of Cason, that it had the duty to use reasonable care in placing Cason in a position where he would not have any access to young males, and to properly monitor his conduct, and that plaintiff had a viable cause of action against Holy See for failing to fulfill the aforesaid duties.

44. That sometime prior to 1974, defendant, Archdiocese of Rochester knew it was reasonably foreseeable that Cason would sometime in the future commit sexual misconduct with young males, and know plaintiff had viable causes of action as a result of the same.

45. That defendants having actual knowledge of the aforesaid wrong-doing induced plaintiff and his family to postpone bringing any suit against them.

46. That defendants fraudulently concealed from plaintiff and his family causes of action unknown to them including but not limited to breaching their fiduciary duty to plaintiff by placing and retaining Cason at St. Patrick's Church, and failing to properly supervise his activities at St. Patrick's Church.

47. That in addition to the fraudulent concealment set forth above, defendants used moral arguments to manipulate plaintiff and his family to convince them not to press criminal charges or pursue any civil causes of action as set forth below.

48. That defendants knew plaintiff and his family were devout Catholics who were not only close to the church, but involved in the day to day life of their church.

49. That defendants knew they and especially Cason held an exalted position in their lives and that they were loyal and obedient to the church and its officials.

50. That defendants preyed on plaintiff's faith in the church and especially its teachings so he would not question the wisdom or decisions of the Holy See and its agents, and used their power to induce plaintiff and his family to not press any criminal charges, or to otherwise harm the church either by pursuing the plaintiff's civil cause of action or publicly disclosing the deviant sexual behavior of Cason.

51. That defendant's imposition of duress employed upon plaintiff and his family to induce them to postpone or forfeit any cause of action through the profound spiritual impact they exercised was of the same nature Cason used to induce plaintiff to maintain the plaintiff's submission and silence concerning the deviant acts Cason carried out between 1976 and 1980 - 1981.

AS AND FOR A SECOND AND SEPARATE CAUSE OF ACTION
FRAUD AND CONSPIRACY TO COMMIT FRAUD

52. Plaintiff realleges each and every allegation in paragraphs "1" through "35 " as though fully set forth herein.

53. Defendants misrepresented, concealed, or failed to disclose information relating to sexual misconduct of Cason as described herein.

54. Defendants knew that they misrepresented, concealed, or failed to disclose information relating to the sexual misconduct of Cason.

55. The fact that Cason had in the past and/or would in the future be likely to commit sexual misconduct with young males was a material fact in plaintiffs and their families' decision whether or not to allow plaintiff to continue attending St. Patrick's Church.

56. Plaintiff justifiably relied upon defendants for information relating to sexual misconduct of

Cason.

57. Upon information and belief, defendants, in concert with each other and with the intent to conceal and defraud, conspired and came to a meeting of the minds whereby they could misrepresent, conceal or fail to disclose information relating to the sexual misconduct of Cason. By so concealing, defendants committed at least one act in furtherance of the conspiracy.

58. As a direct result of defendants' fraud and conspiracy, plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was prevented and will be prevented from performing his daily activities and obtaining the full enjoyment of life; has sustained loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

AS AND FOR A THIRD AND SEPARATE CAUSE OF ACTION
NEGLIGENT RETENTION AND/OR SUPERVISION

59. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

60. Defendants, by and through its agents, servants, and employees, knew or reasonably should have known of Cason's dangerous exploitative propensities and/or that defendant, Cason was an unfit agent.

61. Defendants had a duty to not retain defendant, Cason given Cason's dangerous and exploitative propensities, to provide reasonable supervision of defendant, Cason and to use reasonable care in investigating Cason.

62. Defendants negligently retained and/or failed to supervise Cason in positions of trust and authority as caretaker, teacher, Roman Catholic priest, and spiritual counselor while plaintiff was an altar boy at St. Patrick's Church and Cason was able to commit the wrongful acts against plaintiff. Defendants failed to provide reasonable supervision of Cason and failed to use reasonable care in investigating Cason.

63. As a result of the above-described conduct, plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was prevented and will continue to be prevented from performing his daily activities and obtaining the full enjoyment of life; has sustained loss of earning and earnings capacities; and/or have incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

AS AND FOR A FOURTH AND SEPARATE CAUSE OF ACTION
NEGLIGENT FAILURE TO WARN AND/OR INSTRUCT

64. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

65. Defendants, by and through its agents, servants, and employees, knew or reasonably should have known Cason's dangerous and exploitive propensities and/or that Cason was an unfit agent.

66. Defendants had a duty to warn plaintiff and his family of Cason's dangerous and exploitive propensities.

67. Once defendants became aware of the full extent of Cason's sexual misconduct with numerous child victims, defendants had the duty to contact plaintiff and instruct him to seek medical and/or psychological assistance if plaintiff was a victim of Cason's sexual misconduct.

68. Defendants negligently failed to provide adequate warning to plaintiff and his family of Cason's dangerous propensities and unfitness.

69. As a result of the above-described conduct, plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was prevented and will continue to be prevented from performing his daily activities and obtaining the full enjoyment of life; has sustained loss of earning and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests the following relief:

1. Award plaintiff \$10,000,000.00 in compensatory damages against defendants jointly and severally.
2. Award plaintiff \$40,000,000.00 in exemplary damages.
3. Award plaintiff statutory attorney's fees, and such other and further relief as the Court deems just

and proper under the circumstances together with costs, and disbursements of this action.

Dated: December 5, 2002
Binghamton, New York

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JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury in this action.